

Town of Odessa

RESOLUTION 2008-9

RESOLUTION PROPOSING THE ANNEXATION OF CERTAIN LANDS OF ODESSA COMMON INTO THE MUNICIPAL LIMITS OF THE TOWN OF ODESSA; DESIGNATING THE PROPOSED ZONING CLASSIFICATION THEREOF; SCHEDULING A PUBLIC HEARING; REFERRING THE PROPOSAL TO THE TOWN PLANNING, HISTORIC & TREE COMMISSIONS; AND NOTIFYING THE DELAWARE OFFICE OF STATE PLANNING

WHEREAS, the municipal charter of the Town of Odessa empowers the Town to annex lands contiguous to the corporate limits of the Town in accordance with the procedures set forth therein, and subject to state laws of general application to municipalities governing the annexation of territory.

WHEREAS, the record owners of the hereinafter-described parcels of land have petitioned the Town for annexation and development of Odessa Common, said petition including an “Annexation and Development Agreement of Odessa Common” (hereinafter “Agreement”) which provides a description of the lands proposed for annexation, a description of the lands subject to the Agreement for the purpose of regulating the development thereof, the proposed zoning classification of the lands, and the reasons for the proposed annexation. Said “Annexation and Development Agreement of Odessa Common” is attached hereto as Exhibit A and is incorporate herein by reference thereto. A copy of the Agreement is available at the Odessa Town Hall.

WHEREAS, the record owner, by way of the Agreement, has requested that the parcels of land subject to the Agreement be zoned Planned Neighborhood Development District (PND) and subject to the district regulation set out in Section 85 of the Town Zoning Ordinance.

WHEREAS, the annexation, zoning and development of Odessa Common are consistent with the Comprehensive Plan of the Town of Odessa.

WHEREAS, the Mayor & Council and Planning Commission held pre-application conferences to discuss a possible petition for the annexation, zoning and development of Odessa Common (pursuant to Section 85.3(A) of the Zoning Code).

WHEREAS, the Town Council has considered such petition and has determined that it would be in the best interests of the Town to accept such petition, including the Agreement, and initiate the proceedings required for annexation, zoning and development of Odessa Common, as set forth in the Town’s municipal charter, the Town’s Zoning Code and the Delaware Code.

NOW THEREFORE, BE IT HEREBY RESOLVED, by the Town Council of the Town of Odessa, a majority thereof concurring in Council duly met, that:

1. The Town Council hereby accepts such petition, including the Agreement, and initiates the proceedings required for annexation, zoning and development of Odessa Common, as set forth in the Town's municipal charter, the Town's Zoning Code and the Delaware Code. The description of the lands proposed for annexation and the description of the lands subject to the Agreement for the purpose of regulating the development thereof are as described in the Agreement as attached in Exhibit A and are hereby incorporated herein by reference thereto.

The Town of Odessa, through its Town Council and the Planning Commission (in consultation with the University of Delaware and the Town Solicitor) has duly considered the proposed annexation and development of Odessa Common and has determined the proposed annexation and development of Odessa Common will be in the Town's overall best interest for the following reasons among others:

(A) It is highly likely that Odessa Common will be developed in some manner in the foreseeable future. Because Odessa Common is substantially contiguous to the existing Town of Odessa, its development will likely have a significant impact upon the existing Town of Odessa. By annexing Odessa Common into the Town, the Town can impose its zoning and subdivision regulations, as well as its general police powers and ordinances, to regulate development of Odessa Common. The Town can ensure a high quality design of Odessa Common that incorporates the best architectural and community design features of Delaware and the Delmarva Peninsula from its colonial past to the mid 20th Century.

(B) If annexed into the Town, Odessa Common would be a substantial addition to the Town's existing tax base, and the Town can, through property taxes, building permit fees, and other assessments, recover and fund the cost associated with providing any public function services to Odessa Common.

(C) The annexation of Odessa Common makes good planning sense in that it will allow a coordinated approach to allow Odessa Common to be integrated into the Town's existing infrastructure.

(D) The annexation of Odessa Common will provide additional lands to be added to an adjacent park to provide parking.

(E) The annexation of Odessa Common will provide development of lands which will provide civic and institutional uses (e.g., municipal offices, community meeting facilities, libraries, museums, post offices, elementary schools, kindergarten schools, and early childhood centers).

(F) The annexation of Odessa Common is consistent with the Town's Certified Comprehensive Plan and is depicted as an area for future annexation.

2. The proposed zoning district classification(s) for such lands is Planned Neighborhood Development District (PND) in accordance and consistent with the Town's Comprehensive Plan.

3. A public hearing to receive public comment for the purposes of receiving public opinion and legislative fact-finding for the annexation and zoning of Odessa Common is scheduled for September 22, 2008 at 7:00 p.m. at the Mayor & Town Council Chambers at the Odessa Town Hall located at 315 Main Street, Odessa, DE, 19730. The public hearing is pursuant to: (1) 22 Del. C. §101(5) which requires a public hearing and a thirty (30) day comment period before formal annexation; (2) the Town Charter (Section 3.2.2) requires public hearing for the annexation; (3) Article XVI of the Town Zoning Code for the zoning of the lands; and (4) 22 Del. C. §304 and §305 which require the Town Council to have a public hearing after the Planning Commission's recommendation of zoning for the lands to be annexed prior to official action being taken by Council to annex and zone the lands subject to the Agreement. Any person wishing to be heard is invited to attend. Persons desiring to submit written comments may do so by mailing such comments to: Town of Odessa, P.O. Box 111, Odessa, DE 19730, ATTN: Mayor & Council. To be considered, written comments must be received by the Mayor & Council before the close of the public hearing.
4. A copy of this Resolution shall be delivered to the Town Planning Commission, Historic Commission, and Tree Commission as soon as conveniently possible following the adoption hereof for advisory review and comment from said commissions (under Section 85.3(D)(2) of the Zoning Code); provided that, if the aforesaid commissions do not submit written recommendations to the Mayor & Town Council within 60 days of receiving such the Mayor & Council may proceed to consider and act upon the proposed annexation without the benefit of the recommendations of said commissions.
 - (a) The Planning Commission shall also review the lands to be annexed and the lands subject to the Agreement and make a zoning recommendation to the Mayor and Council prior to the public hearing.
5. A copy of this Resolution, including the Agreement, shall be forwarded by the Town to the Office of State Planning Coordination under the Preliminary Land Services for review and comments from the same pursuant to 29 Del. C. §9204.
 - (a) The Town shall complete a Plan of Services and submit to the Office of State Planning. Must be provided 20 days prior to the adoption of the second resolution hereinafter discussed.
 - (b) The Town shall provide to the Office of State Planning any comments received during the 30 day comment period and public hearing. Must be provided 20 days prior to the adoption of the second resolution hereinafter discussed.
6. Public notice shall be provided by the Town to the residents and property owners in the Town and the territory to be annexed of a public hearing and 30-day comment period, at least thirty (30) days before the date of the public hearing (i.e. thirty days from the date of publication and posting of the notices and the date of the public hearing), as follows:
 - (a) By publication twice in two newspapers of general circulation in the Town and in territory proposed to be annexed, such publication to be in bold print or bordered in black so as to call attention thereto (the publication shall be a summary of this

Resolution with notice that the full text of the Resolution is available at Town Hall);

- (b) By posting in at least three (3) public places in the Town and in at least one (1) place on each tax parcel subject to the Agreement, said posting to be in a place which is viewable to the public (the posting shall be the full text of the Resolution);
- (c) By mailing or delivering a copy of such notice and the full Resolution to other affected jurisdictions and the Office of the State Planning;
- (d) By mailing a copy of such notice, via certified mail, to the owners of record of the lands hereby proposed for annexation at the addresses shown on the public tax records (the mailing shall be the full text of the Resolution)(written notice to one co-owner shall constitute written notice to all).

Said publications, posting and mailings shall state that the annexation is subject to the annexation agreement, briefly summarize the annexation agreement as hereinbefore summarize and state that a copy of said annexation agreement is available at the Odessa Town Hall.

7. Following the herein scheduled public hearing, the Mayor & Council may pass a second resolution ordering a special election to be held at which election those qualified persons residing within the territory proposed for annexation and the Town, and each legal entity or natural person holding record title in its own name to lands within the territory proposed for annexation and the Town, shall each be entitled to one vote on the question of annexation. A second meeting of the Town Council is scheduled for the 20th day of October, 2008, at 7:00 p.m., which said second resolution for the special election may be adopted. The second meeting must be twenty (20) days after the Plan of Services has been submitted to the State Planning Office and twenty (20) days after written comments collected by the Town during the comments period and public hearing have been submitted to the State Planning Office.

The second resolution ordering a special election to be held shall include the following:

- i. A description of the lands proposed to be annexed (as hereinbefore described);
- ii. A statement of the reasons for the proposed annexation (as hereinbefore summarized);
- iii. Provide that notice of the second resolution to be provided by the Town to the residents and property owners in the Town and the territory to be annexed by way of publication (publication for second resolution need only occur once in two newspapers), posting and mailing as provided in the aforementioned. The special election cannot be less than thirty (30) days, nor more than sixty (60) days after the posting and publication.

- iv. The Town shall provide notice to all other affected jurisdictions and the Office of State Planning Coordination of the time, date and place of the special election;
- v. Set the time, date and place for the special election for qualified voters and property owners of the territory to be annexed and the residents of the Town. The special election must be held not less than thirty (30) days, nor more than sixty (60) days after the adoption of the second resolution;
- vi. That the Mayor and Council appoint a Board of Special Elections;
- vii. That the annexation is subject to an annexation agreement, summarize the annexation agreement as hereinbefore summarize, and state that a copy of said annexation agreement is available at the Town Hall.

The adoption of the resolution ordering such special election shall ipso facto be considered the final determination of the Mayor & Council to proceed with the proposed annexation and zoning district classification if a majority of the votes cast at the special election are cast in favor of the proposed annexation; and following such favorable vote, the Mayor & Council shall adopt a final Resolution including such territory within the municipal limits of the Town and designating the zoning district classification(s) of such territory.

MOTION BY BETTS JACKSON, SECONDED BY JEFF GLUECK: TO ACCEPT RESOLUTION 2008-9, AND THAT IN ACCEPTING THE ANNEXATION AND DEVELOPMENT AGREEMENT OF ODESSA COMMON, THE SUPPLEMENTAL STANDARDS, APPENDIX 5, PAGES 1 AND 2 SHALL BE OMITTED.

MOTION CARRIED. JOHN FREEMAN, JEFF GLUECK, BETTS JACKSON, KATHY HARVEY ALL IN FAVOR. NONE OPPOSED. BOB GROVE ABSTAINING.

Adopted by the Mayor & Council of the Town of Odessa, this 4th day of August, 2008.

Kathleen H. Harvey
Mayor

Jessica Norton
Secretary

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